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2534 South University Drive, Suite No. 4
Fargo, North Dakota 58103
Telephone (701) 281-8822
Facsimile (701) 237-0544

FACSIMILE COVER SHEET

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DATE: March 6, 2007

TIME: 2:43 PM (CST)

TOTAL PAGES (including this Cover Sheet): 10

TO: Commissioner for Patents
Attn: Art Unit 3722

FAX #: 571-273-8300

FROM: Jericka Miller, Paralegal (jcricka@neustel.com)

Enclosed please find the Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action, along with attachments and exhibits.

If you have any questions, please let me know!

Jericka Miller
Paralegal
Neustel Law Offices

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

1ST Inventor: Suess, Jr., John
Serial No.: 10/733,525
Filed: 12/9/2003
Invention: File Binding System
Examiner: Abdelwahed, Ali F.
Art Unit: 3722
Docket No.: SUES-002

Addressed to:

Commissioner for Patents
Attn: 3722
P.O. Box 1450
Alexandra, Virginia 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION
(MPEP 711.03(c) AND 37 CFR § 1.181(a))**

This is a Petition to Withdraw Holding of Abandonment under 37 CFR §1.181(a).
Applicant requests a withdrawal of the holding of abandonment based on the following:

1. **First Amendment Filed.** On September 27, 2004 an amendment was filed by the Applicant in response to a first Office Action dated May 26, 2004.
2. **Final Office Action and Notice of Abandonment Not Received.** The Applicant never received the December 28, 2004 Office Action from the USPTO. The Applicant further never received the July 7, 2005 Notice of Abandonment.
3. **Search Performed.** A search of the file jacket and docket records was performed by the attorney of record which indicated that this office action was not received. **Neustel Declaration; Exhibit A. Exhibit B.**
4. **Copy of Docket Record.** A true and correct copy of the docket record is attached hereto as Exhibit A (computerized docketing system) and Exhibit B (front of file jacket).
5. **September 7, 2006 Call to USPTO.** Pursuant to a telephone call on September 7, 2006 with the USPTO regarding the status of the above-referenced application, we were

USPTO Serial No. 10/733,525 (Docket No. SUES-002)


informed that a Final Office Action had been mailed on December 28, 2004 and a Notice of Abandonment had been mailed July 7, 2005. The status phone call was made to the USPTO after a routine review of all files at our office pending at the USPTO.

6. **September 7, 2006 Fax to USPTO.** Our office immediately faxed a request to the USPTO Document Retrieval Services requesting a copy of both the Final Rejection and the Notice of Abandonment.
7. **Attempted Communication with Applicant.** Correspondence was sent via U.S. Mail by our office to the Applicant informing him of the status of his patent application and asking him to contact our office to discuss how he would like us to proceed. This correspondence was returned to our office by the U.S. Postal Service as "Undeliverable As Addressed / Unable to Forward." (**Exhibit C.**) We were unable to contact Applicant to get an updated mailing address. Alternatively, we attempted to contact Applicant via email at last known email address in order to get an updated mailing address. (**Exhibit D.**) Our office was unable to contact Applicant through email communication either. No contact was able to be obtained by any other means.
8. **Applicant Contacted Us February 1, 2007.** Applicant contacted our office on February 1, 2007 via telephone inquiring into the status of his applications. Applicant notified us that he had a new address and e-mail address. Applicant further notified us that he was unaware of the abandonment of this application.
9. **Information Mailed to Applicant February 5, 2007.** On February 5, 2007, the documentation relating to the abandonment of the above-stated patent application was again mailed to the Applicant at the new address.
10. **Decision Made to Request Withdrawal of Abandonment.** The Applicant and Michael S. Neustel were able to discuss the matter on March 5, 2007 where a final decision was made to pursue withdrawal of the abandoned application. Prior to March 5, 2007, the Applicant was playing "phone tag" which the attorney of record.
11. **Applicant Always Wanted to Proceed.** The Applicant has never intended to abandon this application and wants this application to be revived.

USPTO Serial No. 10/733,525 (Docket No. SUES-002)

In light of the foregoing statements and attached exhibits, Applicant and Applicant's representative requests withdrawal of the holding of abandonment based upon failure to receive the Final Office Action mailed by the USPTO and inability to communicate with Applicant upon knowledge that application had become abandoned.

Respectfully submitted,


Michael S. Neustel
Reg. No. 41,221

March 6, 2007
Date

NEUSTEL LAW OFFICES, LTD
2534 South University Drive, Suite No. 4
Fargo, North Dakota 58103
Telephone: (701) 281-8822
Facsimile: (701) 237-0544
e-mail: michael@neustel.com

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

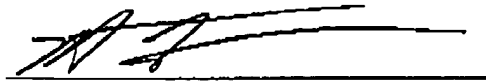
1ST Inventor: Suess, Jr., John
Serial No.: 10/733,525
Filed: 12/9/2003
Invention: File Binding System
Examiner: Abdelwahed, Ali F.
Art Unit: 3722
Docket No.: SUES-002

Declaration of Michael S. Neustel

I, Michael S. Neustel, declare as follows:

1. I am the attorney of record in the above-stated application.
2. We performed a search of the file jacket and docket records in our office relating to the above-stated application.
3. The December 28, 2004 Office Action was not received by our office.
4. The July 7, 2005 Notice of Abandonment was not received by our office.
5. After a reasonable investigation, we have determined that the December 28, 2004 Office Action and the July 7, 2005 Notice of Abandonment were not received by our office.
6. A copy of the docket record is attached hereto as **Exhibit A**. A copy of the file jacket is attached hereto as **Exhibit B**.
7. A copy of the returned envelope containing information about the status of Applicant's patent application is attached hereto as **Exhibit C**.
8. A copy of a December 5, 2007 e-mail sent to the Applicant at a no longer valid e-mail address is attached hereto as **Exhibit D**.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that I executed this Declaration on March 6, 2007 in Fargo, North Dakota.


Michael S. Neustel

BEST AVAILABLE COPY

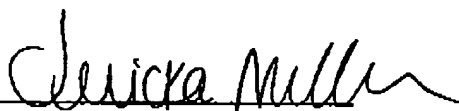
Utility Patent		Print Menu		Verified:	Account Balance:
File No.: SUES-002 Title: File Binding System					
Title: Preparing Petition—no OA or Not. of Abandonment Rec'd					
Check Drop/Deed:					
General Patent Trademark Foreign Search Create-Edit Files Message					
1a - Filing Information		John F. Sues, Jr. P.O. Box 210 Woodlawn VA 24381			
Filing Date:	12/9/2003	1b - Priority Date (if Applicable)			
Serial No:	10/733,525	Serial No. Filing Date Docket (No. " ")			
First Inventor:		Provisional: Format:			
Confirmation No.:					
<input type="checkbox"/> Application Just Sent To Client?					
2b - Patent Office Actions		Date Mailed Due Date Date Sent Reminder Sent?			
USPTO Status Update:		First: 8/26/2004 8/27/2004			
Date O.A. Expected:		Second: Third:			
Examiner:		Abdelwahed, Ali F. Art Unit: 3712 Telephone: (703) 305-3311			
3 - Notice of Allowance		4 - Issue Notification			
Date Mailed Due Date Date Paid		Issue Date: Patent Number:			
5 - Maintenance Fees		Fee Due Reminder Due Dates Reminder Sent? Date Fee Paid			
1st Maintenance Fee (3 1/2):		FeeOneReminder:			
2nd Maintenance Fee (7 1/2):		FeeTwoReminder:			
3rd Maintenance Fee (11 1/2):		FeeThreeReminder:			
		Expiration Date:			

Attorney's Docket No. SUES-002

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being sent via facsimile on March 6, 2007 to the following address:

Commissioner for Patents
Attn: 3712
P.O. Box 1450
Alexandra, Virginia 22313-1450
Fax Number: (571) 273-8300


Jericka Miller (Paralegal)

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Telephone: (701) 281-8822
Facsimile: (701) 237-0544

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Pocket No.: SUES-002Inventor: John SuesContinuation?

PATENT APPLICATION

Date Mailed: 12-9-03

USPTO INFORMATION

Filing Date: 12-9-03Serial No.: 10/133,525Group Art Unit: 3712Examiner: Ali AbdelwahedIssue Date: Patent No.:

POST CARD

Date Received: 12-22-03

FILING RECEIPT

Date Received: 3/25/04

COPY DOCUMENTS TO:

Name: Company: Address:

ASSIGNMENT

Assignment Date: Mailing Date to USPTO: NOTICE OF
ABANDONMENTDate Received:

SECOND OFFICE ACTION

Date Received: Response Due:

FIRST OFFICE ACTION

Date Received: 5-26-04Response Due: 8-26-04

FIRST AMENDMENT

Date Mailed: 9-27-04

NOTICE OF ALLOWANCE

Date Received: Issue Fee Due:

SECOND AMENDMENT

Date Mailed:

ISSUE FEE PAID

Date Mailed: DEA
ISSUE NOTIFICATIONDate Received:

PATENT ISSUED

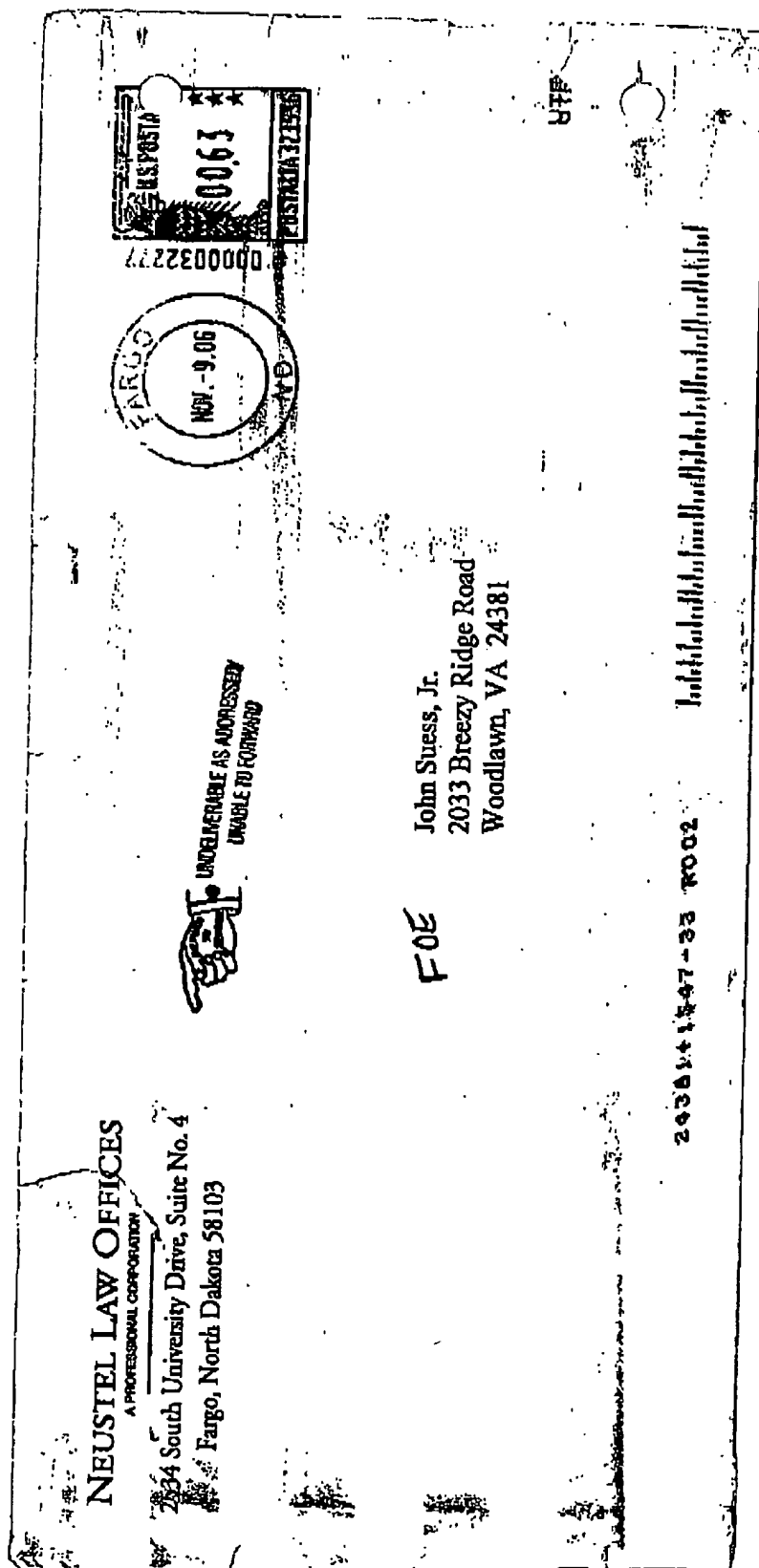
Date Received:

OTHER INFORMATION

PATENT MAINTENANCE FEES

(Due 3 1/2, 7 1/2, and 11 1/2 years after "Issue Date" respectively)

1st Maintenance Fee Due Date: Date Mailed: 2nd Maintenance Fee Due Date: Date Mailed:



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MAR 06 2007

Shannon L. Neustel

From: Shannon Neustel [slnlaptop@neustel.com]
Sent: Tuesday, December 05, 2006 10:35 AM
To: 'inventor@wiredog.com'
Subject: Address Update

John Suess, Jr.
2033 Breezy Ridge Road
Woodlawn, VA 24381

SUES-002

Dear John:

We have attempted to send you documents from our office and the letter has been returned to us stamped "Undeliverable as addressed/Unable to forward". The address that we have on file for you is as shown above.

Please contact our office and provide an updated mailing address.

Thank you,

Shannon Neustel
Office Administrator

Neustel Law Offices, LTD
2534 S. University Drive, Suite 4
Fargo, ND 58103
Telephone: 701-281-8822
Facsimile: 701-237-0544
E-Mail: Shannon@neustel.com
Web Site: www.neustel.com